

# codex alimentarius commission



FOOD AND AGRICULTURE  
ORGANIZATION  
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Agenda Item 3

CX/GP 09/25/3-Add.1

**JOINT FAO/WHO FOOD STANDARDS PROGRAMME  
CODEX COMMITTEE ON GENERAL PRINCIPLES  
Twenty-fifth Session  
Paris, France, 30 March to 3 April 2009**

**PROPOSED DRAFT REVISED CODE OF ETHICS FOR INTERNATIONAL TRADE IN FOOD**

**Comments at Step 3**

**(Colombia, Costa Rica, Egypt, European Community, India, Iran, Philippines, United States,  
FAO/WHO and ICGMA)**

## **Colombia**

Colombia would like to submit the following comments to the “Proposed Draft Revised Code of Ethics for International Trade in Food” (sent by the Secretary, Codex Alimentarius Commission) at Step 3 of the Procedure.

The reference for our comments is the Spanish version of Annex CL 2008/19-GP.

### **Article 1- Objective**

Since the establishment of the principles is only one part of the Code of Ethics, we suggest replacing the word “principles” by the word “guidelines” in line 1 of 1.1.

Furthermore, as the Code is broken down into several parts dealing with securing the protection of consumer health and ensuring fair practices in the food trade, we propose that it be said that the Code **contributes** to reaching Codex objectives. To this end, we submit the following draft for paragraph 1.1:

1.1 The objective of this Code is to establish guidelines for the ethical conduct of international trade in food, thereby contributing to protecting the health of the consumers and ensuring fair practices in the food trade.

### **Article 2 - Scope**

To ensure consistency between 2.1 and 2.2, and to avoid repeating the phrase “establish principles for the ethical conduct” in the Objective and Scope, we submit the following sentence for 2.2:

2.2 This Code applies to all those concerned with international trade in food.

### **Article 3 - Principles**

We submit the following draft for 3.1, so that it will be clearer:

3.1 International trade in food should be conducted in compliance with all consumers’ entitlement to safe, sound and wholesome food and to protection from unfair trade practices.

We propose to replace “[no food] **should**” by “[no food] **shall** be in international trade (...)” at the beginning of 3.2. This is because anyone attached to the principles of the Code must comply with them and this should not be a conditional option.

For the purpose of increased clarity, and consistent with the description of the dangers and related risks that may jeopardise food safety and suitability, we submit the draft of the following principles, including some changes to the original draft of the principles in the document:

- a) has in it any chemical substance or biological agent in an amount which renders it harmful or injurious to health; or
- b) consists in whole or in part of any substance or foreign matter which renders it unfit for human consumption; or
- c) is in whole or in part adulterated, altered, decomposed or diseased, which renders it unfit for human consumption; or
- d) is labelled or presented in a manner that is false, misleading or deceptive<sup>1</sup>; or
- e) is prepared, packaged, stored, transported or marketed under unsanitary conditions; or
- f) displays expired use-by date, expiry date, or best-before date; or
- g) does not take into account enough time for marketing before the expiry of its use-by date, expiry date or recommended best-before date.

#### **Article 4 - Requirements**

We suggest replacing “to the requirements” by “to what has been established in” at the beginning of a), because this takes into account the nature of Codex Alimentarius standards.

Furthermore, consistent with the objectives of the Codex, we suggest a footnote for b) to be placed in the first sentence thus:

b) to such food legislation as may be in force in the exporting and/or importing country<sup>2</sup>; [...]

#### **Costa Rica**

Costa Rica would like to thank the Government of France for hosting once again the Codex Committee on General Principles. In response to the request for comments on CL 2008/19-GP, we would like to recall the position we have held in past years, viz., that there is no need for a Code of Ethics for International Trade in Food in the Codex as this issue has already been addressed in World Trade Organization agreements.

The above position notwithstanding, standards and related documents on the international trade in food already exist within the Codex and the countries must implement said standards and documents so as to comply with Codex principles. Concerning the proposed draft, Costa Rica considers that the document should cover the foodstuffs that are provided as such via food aid and, therefore, considers that the document should focus on this issue in its objective and scope.

Similarly, we continue to agree with CCFICS recommendations to the Commission, found in paragraph 107 of the ALINORM 07/30/33 report:

- “Codex should encourage member countries to further implement the provisions in existing CCFIS texts related to the *“subsequent export of food, whether imported or produced domestically, that had been found to be unsafe or unsuitable”*;
- Codex should encourage FAO, WHO and other international organizations to give priority to providing technical assistance to member countries with insufficient capacity for establishing and implementing food import and export control systems;
- Codex should encourage those member countries with insufficient control systems to give priority in their capacity building/technical assistance needs assessments to the issue of import control systems.”

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<sup>1</sup> If special processing requirements are needed to ensure that a non-processed or semi-processed food is no longer harmful to health, the exporter will have to provide the relevant information on this matter.

<sup>2</sup> If it turns out that implementing the legislation of the importing country (compared with Codex standards and related texts) may affect consumer health, the exporting country (after prior communication with the importing country) will try to ensure that trade between the two parties is carried out in compliance with what has been established in Codex standards and related texts.

## **Egypt**

Egypt supports the importance of having a Code of Ethics for international trade in food. The recommendations from the CCFICS have to be encouraged. Meanwhile, Egypt is also seeking technical assistance from international bodies so as to assist in increasing the capacity building for its control systems.

## **European Community**

The European Community and its 27 Member States (ECMS) appreciate the opportunity to provide comments on the Proposed Draft Revised Code of Ethics for International Trade in Food and respectfully wish to submit the following comments:

The European Community and its Member States (ECMS) have always been in favour of the idea of a revision of the Code of Ethics for International Trade in Food.

The ECMS are of the opinion that this Code should concentrate on the ethical aspects of international trade and not reiterate what other Codex texts and the WTO Agreements already state. The Code of Ethics is indeed not intended to replace, or to duplicate the rules fixed by the WTO agreements, or to establish in parallel guidelines which already appear in the Codex Alimentarius, in particular those which were established by the CCFICS. This Code should focus on what is not already covered by the obligations of the WTO agreements and by the standards and guidelines of the Codex and aim at what represents a moral duty to be applied in international trade. Its objective should therefore be to protect the most vulnerable consumers. It should be implemented by all those having a responsibility in the international trade in food, including governments.

There are important disparities in the world with regard to the capacities of the governments to apply Codex standards and guidelines to protect their consumers. Many developing countries have not yet drawn up specific and detailed legislation laying down the qualitative and sanitary conditions of food. Other countries which adopted in their national legislation the standards and guidelines of the Codex, have difficulties in setting up inspection and control services able to check quality and the harmlessness of imported food. In these countries, consumers are the most vulnerable to food borne diseases and unfair trade practices. This situation has in particular been underlined by several delegations of the least advanced countries in the Second Global Forum of the Food Safety Regulators, which took place in Bangkok from 12 to 14 October 2004.

These countries can constitute a commercial outlet for food which does not meet the safety and quality standards of the exporting or re-exporting countries, or the Codex Alimentarius standards. The WTO Agreements aim primarily to prevent safety and qualitative standards being unduly used for the purpose of commercial protectionism. They do not aim to protect the countries which have not yet set up standards or means of control of food to ensure the consumer protection.

The scope of such a Code of Ethics should be focused on this aspect of international trade: the protection of consumers in countries which do not have yet the means of checking well the quality and the safety of the imported food. A country should not export or re-export food to a country which has not yet established food standards and/or which does not have, or has few means of controls at its border, if this food does not fulfil the national standards of the exporting country, or the Codex Alimentarius standards, or is generally recognized dangerous, unfit for human consumption, adulterated, or misleading to the consumers.

The ECMS fully support the approach taken by the in-session working group which met during the 24<sup>th</sup> Session of CCGP which recommended to the Plenary a document based on a non-paper presented by the US Delegation.

This document is reproduced in the Annex to these comments with some amendments appearing in track changes.

**PROPOSED DRAFT CODE OF ETHICS FOR INTERNATIONAL TRADE IN FOOD  
(AT STEP 3)**

**PREAMBLE**

**The Codex Alimentarius Commission,**

**recognizing that:**

(a) Adequate, safe, sound and wholesome food is a vital element for the achievement of acceptable standards of living and that the right to a standard of living adequate for the health and wellbeing of the individual and his family is proclaimed in the Universal Declaration of Human Rights of the United Nations;

(b) Food is a vital and critical item of international trade and its quality is influenced primarily by prevailing commercial practices and such food legislation and food control practices as are in operation in particular countries;

(c) Food purchases utilize a significant portion of the income of consumers, particularly low-income consumers, who often also represent the most vulnerable group and from whom the ensurance of safe, sound and wholesome food and protection from unfair trade practices is quite critical;

(d) There is increasingly worldwide concern about food safety, food contamination through environmental pollution, adulteration, unfair trade practices in quality, quantity and presentation of food, food losses and wastage and, generally about the improvement of food quality and nutritional status everywhere;

(e) Food legislation and food control infrastructures are not sufficiently developed in many countries to enable adequate protection of their food imports and prevent the dumping of sub-standard and unsafe foods;

(f) The World Trade Organization Agreements represent appropriate instruments for the regulation of international trade but do not oblige governments to take measures to protect consumers from unsafe food or deceptive practices;

**and considering that:**

(a) The major objectives of the work of the Codex Alimentarius Commission are to protect the health of the consumer and ensure fair practices in the trade in food and to facilitate international trade in food through the elaboration and harmonization of definitions and requirements for food;

(b) The above stated objectives can best be achieved by each country establishing or strengthening its food legislation and food control infrastructures and, where necessary, taking advantage of the work of international organizations competent to advise and provide assistance in these areas and particularly of the recommendations of the Codex Alimentarius Commission;

(c) A code of ethical conduct for the international trade in food embodying the principles of sound consumer protection can supplement and complement the establishment and strengthening of national food legislation and food control infrastructures and, at the same time, provide an internationally agreed norm and framework for the realization of practical and effective international cooperation,

hereby decides to recommend that all those engaging in the international trade in food commit themselves morally to this code and undertake voluntarily to support its implementation in the larger interest of the world community.

**DRAFTING NOTE:** The ECMS believe a Preamble should be kept to recall the basic rationale of the elaboration of a Code of Ethics and also to give to this kind of text the solemnity it deserves. This Preamble comes from the current version of the Code of Ethics with an update of the bullet dealing with the GATT Agreement and the deletion of the bullet regarding considerations on breast feeding which seem too specific to be included in such a text.

## ARTICLE 1 - OBJECTIVE

1.1 ~~The objective of this~~ This Code ~~is to establish~~s principles for the ethical conduct of international trade in food, ~~thereby with the objectives~~ of protecting the health of the consumers and ensuring fair practices in the food trade.

## ARTICLE 2 - SCOPE

2.1 This Code applies to all food introduced into international trade<sup>3</sup>, including concessional and food aid transactions.

DRAFTING NOTE: To simplify the text and improve its clarity, the ECMS propose to include footnote 1 in the main text.

2.2 This Code establishes principles of ethical conduct to be applied by all those ~~concerned with~~ involved in international trade in food.

## ARTICLE 3 - GENERAL PRINCIPLES

3.1 International trade in food should be conducted on the principle that all consumers in the world community are entitled to safe, sound and wholesome food and to protection from unfair trade practices.

3.2 A country should not export or re-export to another country food ~~No food (including re-exported food) should be in international trade~~ which<sup>4</sup>:

DRAFTING NOTE: The main responsibility lies with the competent authorities of countries, it seems therefore appropriate to reword the sentence in order to underline this fact.

- a) has in or upon it any substance in an amount which renders it poisonous, harmful or otherwise injurious to health; or
- b) consists in whole or in part of any filthy, putrid, rotten, decomposed or diseased substance or foreign matter, or is otherwise unfit for human consumption; or
- c) is adulterated; or
- d) is labelled or presented in a manner that is false, misleading or deceptive; or
- e) is prepared, packaged, stored, transported or marketed under unsanitary conditions.

## ARTICLE 4 – SPECIFIC REQUIREMENTS FOR FOOD IN INTERNATIONAL TRADE

In order to comply with the general principles laid down in Article 3, Food~~food~~ that is traded internationally should conform:

DRAFTING NOTE: It seems appropriate to make a link between Article 3 which enounces principles and Article 4 which is more on the side of implementation or on how to put in practice the principles

- a) to the requirements of Codex Alimentarius Commission's relevant standards and related texts; or
- b) to such food legislation as may be in force in the exporting and/or importing country; ~~food standards and safety requirements of importing countries should be transparent and available to exporting countries;~~ or

<sup>3</sup> ~~It is understood that the principle of this code should also apply, mutatis mutandi, to concessional and food aid transactions.~~

<sup>4</sup> The provisions of Article 3.2 do not prevent the export of raw or semi processed foods which are not edible as such in order to be further processed, re-processed or reconditioned in the importing country for the purpose of human consumption.

DRAFTING NOTE: This statement is valid but not at the right place; if it is felt important to recall this "obvious" requirement, it should be placed somewhere else

- c) to the provisions contained, regarding food, in bilateral or multilateral agreements signed by the exporting country and the importing country; or
- d) in the absence of such provisions, to such standards and requirements as may be agreed upon, taking into account the provisions of Codex Standards and related texts wherever possible.

## India

(i) India feels that it is the existing food legislation of the importing country that should be of prime consideration rather than the Codex standard alone. This does not mean that the importance of Codex standards is under-estimated since in any case majority of our National standards are harmonised with that of Codex with few exceptions which are based on scientific grounds and rationale.

(ii) It is important to emphasize that proper processing, reprocessing or reconditioning of the raw or semi-processed food imported in the country is essential to make it safe for human consumption.

In view of the above rationale, the following amendments are suggested:

### ARTICLE 3 - PRINCIPLES

Amend footnote 2 as follows:

<sup>2</sup> The provisions of Article 3.2 do not prevent the export of raw or semi processed foods which are not edible as such in order to be further processed, re-processed or reconditioned in the importing country, if such a treatment will make it safe for the purpose of human consumption.

### ARTICLE 4 – REQUIREMENTS FOR FOOD IN INTERNATIONAL TRADE

Amend a) and b) as follows:

a) ~~to the requirements of to the existing legislations as may be in force in the importing country including those non-harmonised with the~~ Codex Alimentarius Commission's relevant standards and related texts on the basis of scientific justification and rationale considered by the importing country; or

b) ~~to such food legislation as may be in force in the exporting and/or importing country;~~ food standards and safety requirements of importing countries should be transparent and available to exporting countries; or

## Iran

### Preamble

It is recommended that the text maintain a preamble, albeit a revised and more focused version as such:

“The Codex Alimentarius Commission, recognizing that:

(a) Food is a vital and important item of international trade and its quality is influenced primarily by prevailing commercial practices and such food legislation and food control practices as are in operation in particular countries;

(b) Food purchases constitute a significant portion of the income of consumers, particularly low-income consumers, who often also represent the most vulnerable group and for whom the ensurance of safe, sound and wholesome food and protection from unfair trade practices is quite critical;

(c) There is increasing worldwide concern about food safety, food contamination through environmental pollution, adulteration, unfair trade practices in quality, quantity and presentation of food;

(d) Food legislation and food control infrastructures are not sufficiently developed in many countries to enable adequate protection of their food imports and prevent the dumping of sub-standard and unsafe foods;

(e) A code of ethics for the international trade in food embodying the principles of sound consumer protection can supplement and complement the establishment and strengthening of national food legislation and food control infrastructures,

Hereby recommends that all those engaging in the international trade in food commit themselves to this code and undertake to support its implementation in the larger interest of the world community”

### **Article 1- Objective**

No comment.

### **Article 2 – Scope**

The criteria in footnote 1 is important and to ensure that the said code of ethics is applied across-the-board, this note should be included into the main body of the document and 2.1 be modified to read:

“2.1 This Code applies to all food introduced into international trade. The principles of this code also apply, mutatis mutandis, to concessional and food aid transactions.”

### **Article 3 – Principles**

Proposed additional item at the end of 3.1:

“To achieve sound, consistent solutions to possible food safety problems in international trade, matters of risk and hazard should be assessed and managed using accepted scientific principles of Food Safety Risk Analysis.”

To prevent any possible misuse/abuse of exported raw or semi-processed foods, the following text should be added at the end of footnote 2:

“All such foods should carry labelling clearly indicating the product’s intended use.”

### **Article 4 – Requirements For Food In International Trade**

Item 4d) should be ‘strengthened’ to read & replaced as follows:

“d) in the absence of such provisions, to such internationally recognized standards (on food safety and trade) and requirements as may be agreed upon, taking into account the provisions of Codex Standards and related texts wherever possible.”

An additional item is proposed as follows:

“e) Trade in food often involves transit through third countries who may subject the products to sampling and tests on the basis of their own standards. To avoid possible conflicts in standards and specifications, the concerned exporting and importing country should duly inform the transit authorities of the agreed standards and requirements in force for that particular trade in food.”

## **Philippines**

We find the proposed texts amenable, except for the Proposed Article 4 - Requirements for Food International Trade bullet (a) which states “to the requirements of Codex Alimentarius Commission's relevant standards and related texts; or”.

We are of the position that since Codex standards are not mandatory, this provision might prove to be discriminating. Countries may opt to adopt Codex as their national standard or base their national standards on Codex texts. The original wording found in Section 5.1 is still ok.

“acceptance of food standards elaborated by the Codex Alimentarius Commission of the adaptation of national standards to such international requirements.”

## United States

The United States submits the following comments on the *Proposed Draft Revised Code of Ethics for International Trade in Food* in response to Codex Circular Letter CL 2007/11-GP.

### General Comments

The United States is not convinced that there is a clear need for a Code of Ethics for International Trade in Food, however, in keeping with the dual mandate of Codex, we recognize the value of a Codex document stating the ethical principles to be followed by those engaged in international trade. Any Code of Ethics developed by Codex should be specific with regards to the Codex mandate and should not repeat or paraphrase issues that are adequately covered by existing Codex texts or by international trade agreements.

The United States can support the *Proposed Draft Revised Code of Ethics for International Trade in Food* as contained in Appendix IX of the Report of the 24<sup>th</sup> Session of the Codex Committee on General Principles, ALINORM 07/30/33. We believe the proposed Code succinctly states the essential principles that apply to the ethical trade of food, and satisfies the criteria we stated in the paragraph above.

We note and concur with the scope of the document, i.e., the document applies to all food, including food that is re-exported. We recall that the question of the re-export of food was addressed by the Codex Committee on Food Import and Export Inspection and Certification Systems and that, while the 15<sup>th</sup> Session of CCFICS could not reach consensus on the inclusion of a new principle in the *Codex Principles for Food Import and Export Inspection and Certification Systems* (CAC/GL 20-1995) regarding the re-export of food, the spirit of the principle has been incorporated into the *Proposed Draft Revised Code of Ethics for International Trade in Food*.

## FAO and WHO

In light of the on-going increase of the international distribution of food and the associated concerning public health impact on Member States when such food is contaminated, FAO and WHO welcome the revision of the Code of Ethics for International Trade in Food. The following comments are submitted for consideration at the 25<sup>th</sup> Session of the Codex Committee for General Principles:

### Article 3

The following amendment to 3a) is considered as a means to modernize the text and to address microbial contamination of foods which will not undergo further processing in the importing country:

a) ~~has in or upon it any substance in an amount which renders it poisonous, harmful or otherwise injurious to health; is contaminated with a hazard(s) which will not be reduced to an acceptable level or eliminated, through expected sorting<sup>3</sup>, processing (excluding dilution) and/or preparation in the importing country; or~~

Insert a new footnote 3 as follows:

“<sup>3</sup> Sorting - the process of separating contaminated food items from non-contaminated foods, where this is feasible and reliable, so that not all food within a consignment are rejected.”

### Article 4

It is noted that reference to Codex Alimentarius Commission's relevant standards and related texts will include the obligation to inform affected countries of importation of contaminated food or ingredients (CAC/GL 19-1995). However, given Member State obligations under the International Health Regulations (2005) and the role of the International Food Safety Authorities Network (INFOSAN) with regard to food safety related public health events of international concern, the following amendments are suggested for consideration:



Renumber the present text as 4.1.

Add a new 4.2 as follows:

“4.2 National authorities responsible for food safety should be aware of their obligations under the International Health Regulations (2005) with regard to food safety events, including notification, reporting or verification of events to the World Health Organization (WHO) as required under the International Health Regulations (2005), as well as communications with WHO under the International Food Safety Authorities Network (INFOSAN) as appropriate<sup>4</sup>.”

Insert a new footnote 4 as follows:

“<sup>4</sup> For further information, see the INFOSAN Information Note No. 4/2007-IHR(2005): The identification, assessment and management of food safety events under the International.”

### **International Council of Grocery Manufacturer Associations (ICGMA)**

The International Council of Grocery Manufacturers Associations (ICGMA) appreciates the opportunity to comment on the above referenced document in preparation for the 25<sup>th</sup> Session of the Codex Committee for General Principles (CCGP). ICGMA, a recognized INGO before the Codex Alimentarius Commission, represents the interests of the consumer packaged goods industry including several hundred food companies that trade food products globally. In this regard, ICGMA strongly supports the work of Codex Alimentarius and promotes the harmonization of scientific standards and policies concerned with health, safety, packaging, and labeling of foods and beverages. ICGMA member companies are sensitive to the need for ethical trade in food products to protect the health of consumers and facilitate fair trade. Furthermore, ICGMA companies understand that unethical conduct also has an adverse impact on the food industry in entirety by decreasing consumer confidence in foods and brands, food operators and regulatory authorities.

ICGMA has participated in several years of discussion within CCGP regarding this document and recognizes that concerns have been expressed by developing nations that may be lacking a robust national food safety infrastructure and, thereby, feel the need for a Codex document to better define the principles of ethics in trade.

ICGMA supports the revised document as presented. ICGMA does not believe the document should reiterate existing Codex provisions or those in other trade agreements or attempt to introduce new horizontal measures that have not been previously decided through existing Codex committees.

ICGMA appreciates the opportunity to submit these comments and looks forward to supporting advancement of this document in CCGP.